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09/493,188	01/28/2000	Hidehiro Ishii	P7156-9071	1906

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EXAMINER

PATEL, GAUTAM

ART UNIT	PAPER NUMBER
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2655

DATE MAILED: 01/05/2004

18

Please find below and/or attached an Office communication concerning this application or proceeding.

TS

Office Action Summary

Application No.

09/493,188

Applicant(s)

ISHII ET AL.

Examiner

Gautam R. Patel

Art Unit

2655

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-61 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-61 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

1. Claims 7-61 are pending for the examination. Claims 47-61 are newly presented for examination.

RCE STATUS

2. The request filed on 10-9-01 for Request for continued Examination (RCE) under 37 CFR 1.114 based on parent Application is acceptable and a RCE has been established. An action on the RCE follows.

Claim Rejections - 35 U.S.C. § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 7-46 are rejected under 35 U.S.C. § 102(e) as being anticipated by Aoki et al., US. patent 6,243,220 (hereafter Aoki).

As to claim 7, Aoki discloses the invention as claimed [see Figs. 1-9 especially 1A, 1B, 3B and 4B] including a first recording area, a second recording area and control information indicating audio data intermingled from different recording modes, comprising:

a first recording area [fig. 2, Audio signal area A & B] on which an audio stream containing audio data is recorded [col. 4, lines 5-10 and col. 15, lines 26-30]; and

a second recording area [fig. 3B & 3C, AUDIO MODE CONTROL SIGNAL area] on which control information [signals b1-b6] is recorded [col. 6, lines 4-44 and col. 15, lines 26-30], the second recording area [AUDIO MODE CONTROL SIGNAL area] located in different position from the first recording area [col. 6, lines 7-17]

wherein the control information includes application information indicating whether or not the audio stream contains audio data intermingled [a combination thereof] from different recording modes [col. 4, lines 35-43 and col. 7, lines 6-16].
NOTE: Aoki discloses audio data intermingled from different modes [for example monaural, two-language/multi-language, stereo etc.] [see col. 4, lines 39-41]. Also Aoki clearly discloses audio data which is intermingled from different recording modes. Aoki uses words “**a combination thereof**” to describe that not only he has different audio modes but also combination or intermingled mode of these data. Also all this information about encoded intermingled data is supplied to signal input 6, and this is called “audio mode control signal”. Audio mode information contains the **audio mode identification information** [see col. 3, lines 45-46].

First recording area and second recording area are located in completely different area. Also an “area discrimination bit” [see figs. 3B and 3C] is used by Aoki to emphasis this point.

4. As to claim 8, Aoki discloses:
the recording modes include monaural audio, multi-channel audio and multiplexed [two-language/multi-language] audio [col. 4, lines 35-43 and col. 7, lines 8-16].
5. As to claim 9, Aoki discloses:
the audio stream contains multiplexed audio data [col. 4, lines 35-43 and col. 7, lines 8-16].
6. As to claim 10, Aoki discloses:

the multiplexed audio data consists of a plurality of audio channels and contains multiple language data in different audio channels [col. 4, lines 35-43 and col. 7, lines 8-16].

7. As to claim 11, Aoki discloses:

the audio stream further contains multi-channel audio data, and
wherein the application information indicates that the audio stream contains the audio data with different recording modes [col. 4, lines 35-43 and col. 7, lines 8-16]

8. As to claim 12, Aoki discloses:

the control information further includes number information indicating a number of audio channels in the audio stream [col. 5, lines 56 to col 6, line 3]. NOTE: Since each audio channel is identified individually, and where data is recorded, information indicating number of channels for that mode is inherently present. For example stereo 2-channels would have two channels and stereo 4-channels would have four channels. This is information is inherently needed to assign the channels and wires necessary to transmit and record the information.

9. As to claim 13, Aoki discloses:

the control information further includes number information specifying one of the recording modes [col. 5, lines 11-40].

10. As to claim 14, Aoki discloses:

the control information further includes rate information [sampling frequency] indicating a bit rate of the audio data [col. 4, lines 44-61 and col. 5, lines 56-63].

11. As to claim 15, Aoki discloses:

a recording device [fig.1A, unit 16; Recording Amplifier] which records audio data on a first recording area [fig. 2, Audio signal area A & B] of the recording medium as an audio stream [col. 4, lines 18-34 and col. 15, lines 26-30]; and

Art Unit: 2655

a generating device [fig. 1A, unit 10] which generates control information including application information indicating whether or not the audio stream contains audio data with different recording modes [col. 3, lines 34-53; col. 4, lines 35-61 and col. 7, lines 8-16];

wherein the recording device [fig. 1A, unit 10] records the control information [signals b1-b6] on a second recording area [AUDIO MODE CONTROL SIGNAL area] located in different position from the first recording area [col. 6, lines 7-17] of the recording medium [col. 4, lines 35-61 and col. 7, lines 6-16].

NOTE: First recording area and second recording area are located in completely different area. Also an "area discrimination bit" [see figs. 3B and 3C] is used by Aoki to emphasis this point.

12. As to claims 16-22, they are claims corresponding to claims 8-14 respectively and they are therefore rejected for the same reasons set forth in the rejection of claims 8-14 respectively, supra.

13. As to claim 23, Aoki discloses:

a first recording area [fig. 2, AUDIO SIGNAL AREA A or B] on which an audio stream containing the audio data is recorded [col. 5, lines 5-10], and a second recording area [fig. 2, SUBCODE AREA A or B] on which control information [signals b1-b6] is recorded [col. 15, lines 26-30], the second recording area [AUDIO MODE CONTROL SIGNAL area] located in different position from the first recording area [col. 6, lines 7-17] wherein the control information includes application information indicating whether or not the audio stream contains audio data intermingled from different recording modes [col. 4, lines 35-43;], the system comprising:

a reading device [fig. 1B, unit 20] which reads the control information from the second recording area of recording medium [col. 5, lines 11-40], and

a controller [fig. 1B, unit 28] which controls the reproduction of the audio data recorded on the first recording area of the medium based on the control information [col. 5, lines 11-40].

NOTE: Aoki discloses audio data intermingled from different modes [for example monaural, two-language/multi-language, stereo etc.] [see col. 4, lines 39-41]. Also Aoki clearly discloses audio data which is intermingled from different recording modes. Aoki uses words “**a combination thereof**” to describe that not only he has different audio modes but also combination or intermingled mode of these data. Also all this information about encoded intermingled data is supplied to signal input 6, and this is called “audio mode control signal”. Audio mode information contains the **audio mode identification information** [see col. 3, lines 45-46].

First recording area and second recording area are located in completely different area. Also an “area discrimination bit” [see figs. 3B and 3C] is used by Aoki to emphasis this point.

14. As to claims 24-25, they are claims corresponding to claims 8-9 respectively and they are therefore rejected for the same reasons set forth in the rejection of claims 8-9 respectively, supra.

15. As to claim 26, Aoki discloses:

the multiplexed audio data consists of a plurality of audio channels and contains multiple language data in different audio channels [col. 4, lines 35-43 and col. 7, lines 8-16],

the system further comprising operating device [fig. 1B, units 24 and 28] for selecting one of the multiple language data, wherein the controller controls the reproduction of the audio data such that only the selected [audio selection switch] one of the multiple language data is reproduced [col. 3, lines 15-25 and col. 5, lines 18-40].

16. As to claims 27-30, they are claims corresponding to claims 11-14 respectively and they are therefore rejected for the same reasons set forth in the rejection of claims 11-14 respectively, supra.

17. As to claim 31, Aoki discloses:

recording audio data on a first recording area of the recording medium as an audio stream [col. 4, lines 18-34];

generating control information [fig. 1A, unit 10] including application information indicating whether or not the audio stream contains audio data intermingled from different recording modes; and

recording the control information on a second recording area [AUDIO MODE CONTROL SIGNAL area] located in different position from the first recording area [col. 6, lines 7-17] of the recording medium [col. 4, lines 35-61 and col. 7, lines 6-16].

NOTE: Aoki discloses audio data intermingled from different modes [for example monaural, two-language/multi-language, stereo etc.] [see col. 4, lines 39-41]. Also Aoki clearly discloses audio data which is intermingled from different recording modes. Aoki uses words "**a combination thereof**" to describe that not only he has different audio modes but also combination or intermingled mode of these data. Also all this information about encoded intermingled data is supplied to signal input 6, and this is called "audio mode control signal". Audio mode information contains the **audio mode identification information** [see col. 3, lines 45-46].

First recording area and second recording area are located in completely different area. Also an "area discrimination bit" [see figs. 3B and 3C] is used by Aoki to emphasis this point.

18. As to claims 32-38, they are method claims corresponding to claims 8-14 respectively and they are therefore rejected for the similar reasons set forth in the rejection of claims 8-14 respectively, supra.

Art Unit: 2655

19. As to claim 39, it is drawn to a method claim corresponding to the apparatus claim of claim 23, is rejected for similar reasons set forth in the rejection of claim 23, supra.
20. As to claims 40-46, they are method claims corresponding to claims 8-14 respectively and they are therefore rejected for the similar reasons set forth in the rejection of claims 8-14 respectively, supra.
Aoki was cited as prior art reference in paper no. 9, mailed 11-20-02.

Claim Rejections - 35 U.S.C. § 103

21. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:
- (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
- This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
22. Claims 47-61 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Aoki in view of Oguro, US. patent 6,097,558 (hereafter Oguro).

As to claim 47, Aoki discloses the invention as claimed [see Figs. 1-9 especially 1A, 1B, 3B and 4B] including a first recording area, a second recording area in different position from the first recording area, comprising:

a first recording area [fig. 2, Audio signal area A & B] on which an audio stream containing audio data is recorded [col. 4, lines 5-10 and col. 15, lines 26-30]; and

a second recording area [fig. 3B & 3C, AUDIO MODE CONTROL SIGNAL area] on which control information [signals b1-b6] is recorded [col. 6, lines 4-44 and col. 15, lines 26-30], the second recording area [AUDIO MODE CONTROL SIGNAL area] located in different position from the first recording area [col. 6, lines 7-17].

Aoki discloses all of above elements including mixed mode data [indicated by "a combination thereof" at col. 4, lines 41]. Since Aoki has mixed mode data, Aoki also inherently has to separate this data to be of any use, therefore by definition Aoki also discloses control information regarding this mixed mode. Aoki does not specifically disclose well known details such as, how he is separating the data and if he has a mix mode flag to do this.

However, it is well known in the art the use of mixed mode signals and devices [such as mixer chips] and different methods for mixing and separating these audio modes so they can be used in useful manner. Also Oguro clearly discloses:

a bit [flag] indicating a mix mode [col. 7, lines 29-37 and fig. 8A]. Both Aoki and Oguro are interested in improving the storage of the audio signal, both shows different audio modes and both shows different channels for recording and bits indicating different channels.

Therefore, it would have been obvious to provide the system of Aoki with data arrangement of a header and associated details such as mix mode flag [MIX] as taught by Oguro. The application or use of the mixed mode flag as taught by Oguro would have been obvious, because the mixed mode flag [or MIX bit] performs the same function in the same way as the decoder [or audio mode processing circuit details] of Aoki's system, and is an equivalent element. One of ordinary skill in the art would have recognized that the MIX bit of Oguro was equivalent and an obvious alternative to the means for decoding the mixed mode [unit 10, fig. 1A] of system of Aoki.

NOTE: First recording area and second recording area are located in completely different area. Also an "area discrimination bit" [see figs. 3B and 3C] is used by Aoki to emphasis this point.

23. As to claim 48, Aoki discloses:

the control information also includes channel number data [record channel information 36] [col. 4, lines 35-43 and col. 7, lines 8-16].

24. As to claim 49, Aoki discloses:

the channel number data indicates multiplexed audio data, multi-channel audio data, and monaural audio data [col. 4, lines 35-43 and col. 7, lines 8-16].

25. As to claim 50, Aoki discloses:

a recording device which records audio data on a first recording area [fig. 2, Audio signal area A & B] of the recording medium as an audio stream [col. 4, lines 5-10 and col. 15, lines 26-30]; and

the recording device records the control information on a second recording area [fig. 3B & 3C, AUDIO MODE CONTROL SIGNAL area], located in a different position from the first recording area, of the recording medium [col. 6, lines 7-17]; and

a generating device [fig. 1A, unit 10] which generates control information

Aoki discloses all of above elements including mixed mode data [indicated by "a combination thereof" at col. 4, line 41] and control information generator [col. 4, lines 35-43]. Since Aoki has mixed mode data, Aoki also inherently has a method to separate this data to be of any use, therefore by definition Aoki also discloses control information regarding this mixed mode. Aoki does not specifically disclose well known details such as, how he is separating the data and if he has a mix mode flag to do this.

However, it is well known in the art the use of mixed mode signals and devices [such as mixer chips] and different methods for mixing and separating these audio modes so they can be used in useful manner. Also Oguro clearly discloses:

a bit [flag] indicating a mix mode [col. 7, lines 29-37 and fig. 8A]. Both Aoki and Oguro are interested in improving the storage of the audio signal, both shows different audio modes and both shows different channels for recording and bits indicating different channels.

Therefore, it would have been obvious to provide the system of Aoki with data arrangement of a header and associated details such as mix mode flag [MIX] as taught

by Oguro. The application or use of the mixed mode flag as taught by Oguro would have been obvious, because the mixed mode flag [or MIX bit] performs the same function in the same way as the decoder [or audio mode processing circuit details] of Aoki's system, and is an equivalent element. One of ordinary skill in the art would have recognized that the MIX bit of Oguro was equivalent and an obvious alternative to the means for decoding the mixed mode [unit 10, fig. 1A] of system of Aoki.

NOTE: First recording area and second recording area are located in completely different area. Also an "area discrimination bit" [see figs. 3B and 3C] is used by Aoki to emphasis this point.

26. As to claims 51-52, they are claims corresponding to claims 48-49 respectively and they are therefore rejected for the same reasons set forth in the rejection of claims 48-49 respectively, supra.
 27. As to claim 53, Aoki discloses:
 - a first recording area [fig. 2, AUDIO SIGNAL AREA A or B] on which an audio stream containing the audio data is recorded [col. 5, lines 5-10], and
 - a second recording area [fig. 2, SUBCODE AREA A or B] on which control information [signals b1-b6] is recorded [col. 15, lines 26-30],
 - the second recording area [AUDIO MODE CONTROL SIGNAL area] located in different position from the first recording area [col. 6, lines 7-17],
 - a reading device [fig. 1B, unit 20] which reads the control information from the second recording area of recording medium [col. 5, lines 11-40], and
 - a controller [fig. 1B, unit 28] which controls the reproduction of the audio data recorded on the first recording area of the medium based on the control information [col. 5, lines 11-40].
- Aoki discloses all of above elements including mixed mode data [indicated by "a combination thereof" at col. 4, lines 41]. Since Aoki has mixed mode data, Aoki also inherently has to separate this data to be of any use, therefore by definition Aoki also discloses control information regarding this mixed mode. Aoki does not specifically

disclose well known details such as, how he is separating the data and if he has a mix mode flag to do this.

However, it is well known in the art the use of mixed mode signals and devices [such as mixer chips] and different methods for mixing and separating these audio modes so they can be used in useful manner. Also Oguro clearly discloses:

a bit [flag] indicating a mix mode [col. 7, lines 29-37 and fig. 8A]. Both Aoki and Oguro are interested in improving the storage of the audio signal, both shows different audio modes and both shows different channels for recording and bits indicating different channels.

Therefore, it would have been obvious to provide the system of Aoki with data arrangement of a header and associated details such as mix mode flag [MIX] as taught by Oguro. The application or use of the mixed mode flag as taught by Oguro would have been obvious, because the mixed mode flag [or MIX bit] performs the same function in the same way as the decoder [or audio mode processing circuit details] of Aoki's system, and is an equivalent element. One of ordinary skill in the art would have recognized that the MIX bit of Oguro was equivalent and an obvious alternative to the means for decoding the mixed mode [unit 10, fig. 1A] of system of Aoki.

NOTE: First recording area and second recording area are located in completely different area. Also an "area discrimination bit" [see figs. 3B and 3C] is used by Aoki to emphasis this point.

28. As to claims 54-55, they are claims corresponding to claims 48-49 respectively and they are therefore rejected for the same reasons set forth in the rejection of claims 48-49 respectively, supra.
29. As to claim 56, it is drawn to a method claim corresponding to the apparatus claim of claim 47, is rejected for similar reasons set forth in the rejection of claim 47, supra.

30. As to claims 57-58, they are method claims corresponding to claims 48-49 respectively and they are therefore rejected for the similar reasons set forth in the rejection of claims 48-49 respectively, supra.
31. As to claim 59, it is drawn to a method claim corresponding to the apparatus claim of claim 53, is rejected for similar reasons set forth in the rejection of claim 53, supra.
32. As to claims 60-61, they are method claims corresponding to claims 48-49 respectively and they are therefore rejected for the similar reasons set forth in the rejection of claims 48-49 respectively, supra.

Aoki was cited as prior art reference in paper no. 9, mailed 11-20-02.

33. Applicant's arguments filed on 11-18-03 (Paper # 17) have been fully considered but they are not deemed to be persuasive for the following reasons.

34. In the REMARKS, the Applicant argues as follows:

A) That: "if the application information indicates that the audio stream contains multiple audio modes, then the audio stream may have a section of multiplexed audio followed by a section of multichannel audio." [page 16, para. 2; REMARKS].

This aspect is not claimed so argument is moot.

B) That: "Aoki fails to disclose whether or not the audio information with different recording modes is mixed or intermingled in one audio stream. Specifically, Aoki fails to teach and/or suggest that the control information includes application information indicating whether or not the audio stream contains audio data intermingled from different recording modes." [page 16, para. 3; REMARKS].

FIRST: Aoki, does disclose these aspects, see detailed explanation in rejection of claim 7 and NOTE, above.

SECOND: Yes, Aoki does not use word such as mixed or intermingled but he uses word "a combination thereof" for describing that he does have these mixed modes.

THIRD: Aoki also has control information in unit 10. It would be useless to provide these mixed modes and not bale to reproduce them separately because these mixed mode by themselves will produce gibberish and data not useful for any audio information. Therefore by definition Aoki separates this data and do this one must have control information.

Other prior art cited

35. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

1. Markow et al. (US. patent 6,195,437) AMethod and apparatus for independent gain control ...
2. Kawahara et al. (US. patent 4,847,816) Audio information reproducing apparatus.

Contact information

36. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gautam R. Patel whose telephone number is (703) 308-7940. The examiner can normally be reached on Monday through Thursday from 7:30 to 6.

The appropriate fax number for the organization (Group 2650) where this application or proceeding is assigned is (703) 872-9314.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Doris To can be reached on (703) 305-4827.

Art Unit: 2655

Any inquiry of a general nature or relating to the status of this application should be directed to the group receptionist whose telephone number is (703) 305-4700 or the group Customer Service section whose telephone number is (703) 306-0377.

A handwritten signature in black ink, reading "Gautam R. Patel". The signature is written in a cursive style with a long horizontal stroke at the end.

Gautam R. Patel
Patent Examiner
Group Art Unit 2655

December 24, 2003